

232.

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRR-1850-2016

Date of decision:24.09.2018.

MOHD SALMAN

... Petitioner

Versus

STATE OF HARYANA & ANR

.... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Pankaj Kaushik, Advocate, for
Mr. Saleem Ahmed, Advocate,
for the petitioner.

Mr. Ripu Daman, AAG, Haryana,
for respondent No.1.

Mr. Abhimanyu Singh, Advocate,
for respondent No.2.

HARI PAL VERMA, J.(Oral)

Present revision petition has been filed against the judgment dated 19.04.2016 passed by learned Additional Sessions Judge, Mewat, whereby his appeal against the judgment of conviction dated 23.12.2014 and order of sentence dated 24.12.2014 passed by learned Judicial Magistrate Ist Class, Mewat, was dismissed.

Vide judgment dated 23.12.2014, the petitioner was held guilty for commission of offence under Section 138 of Negotiable Instruments Act and vide separate order dated 24.12.2014, he was sentenced to undergo simple imprisonment for a period of 1 ½ year (18 months) and further to pay compensation to the tune of Rs.3,37,500/- to the complainant within a period of two months and in default of payment of compensation, to further

undergo simple imprisonment for six months.

On 17.05.2016, this Court passed the following order:-

“After arguing for some time, learned counsel for the petitioner states that the petitioner is ready to pay the cheque amount in terms of the judgment passed in Damodar S. Prabhu Vs. Sayed Babalal H., 2010 (2) RCR (Crl.) 851.

Notice of motion for 28.5.2016.

Dasti only.”

Though the petitioner had shown his readiness to pay the cheque amount in terms of judgment passed by the Hon'ble Apex Court in **Damodar S. Prabhu Versus Sayed Babalal H.-2010(2) RCR (Criminal) 851** but as against the outstanding cheque amount of Rs.2.25 lakhs, the petitioner has paid Rs.85,000/- by way of a bank draft in the name of complainant on 08.08.2016 and another amount of Rs.60,000/- by way of a bank draft on 18.11.2016 and thereafter despite the case having been adjourned repeatedly, the remaining amount has not been paid.

Instead of making the payment the petitioner is either seeking adjournment one after the other or has not put in appearance. There was no appearance on behalf of the petitioner on 30.11.2017 and 19.02.2018. Thus, the outstanding amount of Rs.80,000/- has not yet been paid despite there being an order dated 17.02.2017 passed by this Court, which reads as under:-

“Pursuant to the order dated 23.11.2016, learned counsel for the petitioner has produced in Court today two demand drafts for an amount of ₹40,000/- each, i.e. ₹80,000/- in all, payable to respondent no.2, Sanjay Manocha. The said demand drafts have been handed over

to the complainant who is present in Court, identified by his counsel.

On query, the complainant has stated that if he is paid ₹80,000/- more, he would not insist upon the amount awarded by the Courts below, of ₹3,37,500/-, and he would be willing to compromise the matter once for all.

Learned counsel for the petitioner seeks time to take instructions.

Adjourned to 27.02.2017.

To be shown in the urgent list.”

Thereafter, case was listed on 27.02.2017, 18.05.2017, 22.05.2017, 14.07.2017, 26.09.2017, 30.11.2017, 08.12.2017, 19.02.2018, 01.05.2018 and 10.07.2018, however, petitioner has not paid the remaining outstanding amount.

The conduct of the petitioner does reflect that he is not inclined to honour his commitment, thus the Court has no option except to dismiss the present petition.

However, in case the petitioner still makes the payment of remaining outstanding amount, he is at liberty to move appropriate application for revival of present petition.

(HARI PAL VERMA)
JUDGE

24.09.2018
sanjeev

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No